

University of Dundee

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Livesey, James

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An Alternative Genealogy for Global Capitalism: The Rhine Becomes an Inland Sea, 1792–1815

James Livesey, *Scottish Centre for Global History, University of Dundee*

ABSTRACT

This article argues that the change that opened the door to a capitalist world, one dominated by capitalist norms, was the alteration to the boundary between economic and public power that followed the era of the democratic revolution and in particular the French Revolution. There is consensus of the institutional creativity fostered by the resistance to Louis XIV. The role of the French Revolution and the Congress settlement in fostering capitalist innovation has not attracted the same attention. This article advances the view that the Congress settlement transposed the political universalism of the Revolution into an economic register. The article focuses on the evolution of the international legal regime regulating trade on the Rhine to illuminate the genealogy of capitalist universalism.

What was the cumulative effect of the revolutionary era from 1776 to the Congress of Vienna on economic institutions and economic life? A series of metrics indicate a shift in the global economy after 1815 toward to a new economic regime dominated by the North Atlantic littoral.¹ Growth

I would like to acknowledge the contribution of my deeply regretted brother, Dr. Finbarr Livesey, to the development of this article. I would also like to acknowledge the exemplary intellectual engagement of the reviewers.

1. Christopher A. Bayly, *The Birth of the Modern World, 1780–1914: Global Connections and Comparisons* (Oxford: Blackwell, 2003), 69–125; Kenneth Pomeranz, *The Great Divergence: China, Europe, and the Making of the Modern World Economy* (Princeton, NJ: Princeton University Press, 2000); Jurgen Oesterhammel, *The Transformation of the World: A Global History of the Nineteenth Century* (Princeton, NJ: Princeton University Press, 2015), 637–49; Roy B. Wong, *China Transformed: Historical Change and the Limits of European Experience* (Ithaca, NY: Cornell University Press, 1997); Charles Knick Harley, “British and European Industrialisation,” in *The Cambridge History of Capitalism, Volume 1: The Rise of Capitalism: From Ancient Origins to 1848*, ed. Larry Neal and Jeffrey Williamson (Cambridge: Cambridge University Press, 2014), 491–532.

rates in countries around the Atlantic began to rise and compound themselves annually. Prices of a set of basic commodities became globally integrated.² The slave economy complex in the American South intensified as the Atlantic economy expanded.³ The connection between political moment and economic effect is widely acknowledged. Economic historians such as Findlay and O'Rourke and the diplomatic historian Paul Schroeder all agree that the congress system created stability in the North Atlantic littoral and that was the precondition for the moment of hegemony.⁴ O'Rourke and Williamson further argue that 1815 initiated the first global capitalist century of the gold standard, lowered costs of transport, industrial emulation, and political hegemony of European empires.⁵ The key feature of this moment, in all accounts, is that capitalist institutions extended beyond their particular nations of origin to become international.

This article explores the genealogy of new international capitalist institutions across the revolutionary decades. There are robust arguments for the importance of exogenous events and processes, primarily political, to the emergence of fundamental capitalist institutions from the Middle Ages until the present day. The de Roovers and Lopez, and currently Fredona and Reinert, argue that the institution of the firm, with its attendant technologies, was created in the context of the self-assertion of the Italian city-states, primarily Florence, in the thirteenth century.⁶ North and Weingast argue that the English Glorious Revolution of 1688 created

2. Kevin H. O'Rourke and Jeffrey G. Williamson, "When Did Globalisation Begin?," *European Review of Economic History* 6, no. 1 (April 2002): 23–50; Dennis O. Flynn and Arturo Giraldez, "Path Dependence, Time Lags and the Birth of Globalisation: A Critique of O'Rourke and Williamson," *European Review of Economic History* 8, no. 1 (2004): 81–108; Kevin H. O'Rourke, "The Economist and Global History," in *The Prospect of Global History*, ed. James Belich, John Darwin, Margret Frenz, and Chris Wickham (Oxford: Oxford University Press, 2016), 44–63.

3. Sven Beckert, *Empire of Cotton: A New History of Global Capitalism* (London: Harvard University Press, 2014); Walter Johnson, *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom* (Cambridge, MA: Harvard University Press, 2013); Barry W. Higman, *Plantation Jamaica, 1750–1850: Capital and Control in a Colonial Economy* (Kingston, Jamaica: University of the West Indies Press, 2005); Richard Follett, *The Sugar Masters: Planters and Slaves in Louisiana's Cane World, 1820–1860* (Baton Rouge: University of Louisiana Press, 2005); Sven Beckert and Seth Rockman, eds., *Slavery's Capitalism: A New History of American Economic Development* (Philadelphia: University of Pennsylvania Press, 2016).

4. Ronald Findlay and Kevin O'Rourke, *Power and Plenty: Trade, War and the World Economy in the Second Millennium* (Princeton, NJ: Princeton University Press, 2007); Paul Schroeder, *The Transformation of European Politics, 1763–1848* (Oxford: Oxford University Press, 1994).

5. Kevin O'Rourke and Jeffrey G. Williamson, *Globalization and History: The Evolution of a Nineteenth-Century Atlantic Economy* (Cambridge, MA: MIT Press, 1999).

6. Raymond de Roover, "A Florentine Firm of Cloth Manufacturers," *Speculum: A Journal of Medieval Studies* 16, no. 1 (1941): 3–33, and *The Rise and Decline of the Medici Bank, 1397–1494* (Cambridge, MA: Harvard University Press, 1963); Robert S. Lopez, *The Commercial Revolution of the Middle Ages, 950–1350* (Cambridge: Cambridge University Press, 1976); Sophus Reinert and Robert Fredona, "Merchants and the Origins of Capitalism" (Harvard Business School Working Paper 18-021, 2017).

the political institutions that guaranteed security, or even domination, for economic elites, and so created the conditions for the first capitalist society.⁷ They idealize secure contract as the core driver of the financial revolution and growth in Britain, although this argument is highly contested by scholars who argue for the developmental role of the state or, alternatively, the importance of empire in creating a “British model.”⁸ Increasingly the normativity of the British path, and of its intellectual reconstructions, are also contested.⁹ However, there is consensus on the institutional creativity generated by the resistance to the hegemony of Louis XIV and the importance of those innovations to the financial revolution.¹⁰ There is no comparable debate around the political institutions that emerged from the revolutionary decades a hundred years later. Despite the scale of economic change and the global nature of postrevolutionary capitalism, the political and intellectual work that went into creating transnational institutions has not been a topic of research.

This article focuses on a particular phenomenon, the evolution of the international legal regime regulating trade on the Rhine, as a case study in the creation of the global institutions that framed and enabled global capitalist development. Institutions coordinate action and lower transaction costs.¹¹ International institutions are the most difficult to understand because they cannot rely on the enforcement

7. Douglass C. North and Barry R. Weingast, “Constitutions and Commitments: Evolution of Institutions Governing Public Choice in Seventeenth-Century England,” *Journal of Economic History* 49 (1989): 803–22. The argument is generalized in Daron Acemoglu and James A. Robinson, *Why Nations Fail: The Origins of Power, Prosperity, and Poverty* (London: Profile Books, 2012), 182–212.

8. Steve Pincus and James Robinson, “What Really Happened during the Glorious Revolution?” (NBER Working Paper 17206, National Bureau of Economic Research, Cambridge, MA, July 2011); Steve Pincus, *1688: The First Modern Revolution* (New Haven, CT: Yale University Press, 2009); Julian Hoppit, “Compulsion, Compensation and Property Rights in Britain 1688–1830,” *Past and Present* 210 (2011): 93–127; Sophus Reinert, *Translating Empire: Emulation and the Origins of Political Economy* (Cambridge, MA: Harvard University Press, 2011); Eric Reinert, “The Role of the State in Economic Growth,” *Journal of Economic Studies* 26, no. 415 (1999): 268–326; Jo Guldi, *Roads to Power: Britain Invents the Infrastructure State* (Cambridge, MA: Harvard University Press 2012).

9. Jeff Horn, *The Path Not Taken: French Industrialization in the Age of Revolution, 1750–1830* (Cambridge, MA: MIT Press, 2006); Alessandro Stanziani, *Rules of Exchange: French Capitalism in Comparative Perspective, Eighteenth to the Early Twentieth Centuries* (Cambridge: Cambridge University Press, 2012); Peter Hall and David Soskice, *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage* (Oxford: Oxford University Press, 2001); Roy B. Wong, “China before Capitalism,” in Neal and Williamson, *Cambridge History of Capitalism, Volume 1*, 125–64.

10. Patrick Karl O’Brien, “The Formation of States and Transitions to Modern Economies: England, Europe, and Asia Compared,” in Neal and Williamson, *Cambridge History of Capitalism, Volume 1*, 357–402.

11. Foundational work on historical institutionalism includes Ronald Coase, “The Nature of the Firm,” *Economica* 4, no. 16 (1937): 386–405; Oliver E. Williamson, *The Economic Institutions of Capitalism: Firms, Markets, Relational Contracting* (New York: Simon & Schuster, 1985); Douglass North, *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press, 1990), and *Understanding the Process of Economic Change* (Princeton, NJ: Princeton University Press, 2005).

mechanism of the state, which guarantees domestic institutions. A key feature of international institutions therefore is their capacity to create legitimacy for interests through the establishment of norms.¹² The settlement of postrevolutionary Rhine trade illustrates the dynamic through which the aspiration to identify universal, cosmopolitan rights, which had been characteristic of the revolutionary movements, migrated from the sphere of politics to the economy. Commercial, as opposed to political, universalism offered a new normative orientation for global capitalism. New global institutions, such as the gold standard, opened the door to the exercise of new kinds of power, and European states exploited those opportunities more successfully than any others in the nineteenth century. By focusing on the institutions that created international legitimacy, we avoid a problem of circularity that identifies modern economic growth with the particular pathways of individual European states.¹³

Approaching the history of capitalism through its institutions empirically grounds the aspiration to reconceptualize capitalism as a historically contingent form of social totality.¹⁴ The firm is the most ubiquitous capitalist institution and an excellent locus for its analysis.¹⁵ However, enterprises are enormously complex and heterogeneous.¹⁶ Marianna Mazzucato, Carlotta Perez, and scholars associated with modern monetary theory argue that there are many instruments and institutions other than the firm through which the investment necessary for modern, sustained economic growth can and have been delivered.¹⁷ Intergovernmental organizations, such as the World Trade Organization, the International Monetary

12. Mark Mazower, *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations* (Princeton, NJ: Princeton University Press 2009).

13. Rosenthal and Wong point this out in their critique of North, Wallis, and Weingast's work. Jean-Laurent Rosenthal and Roy Bin Wong, *Before and After Divergence: The Politics of Economic Change in China and Europe* (Cambridge, MA: Harvard University Press, 2011), 3; Douglass North, John Joseph Wallis, and Barry Weingast, *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History* (Cambridge: Cambridge University Press, 2009); Istvan Hont, "Introduction," in *Jealousy of Trade: International Competition and the Nation-State in Historical Perspective* (Cambridge, MA: Harvard University Press, 2005), 4–5. Acemoglu and Robinson's account of the same transition avoids circularity by asserting political determinants to economic change. Daron Acemoglu and James Robinson, *Why Nations Fail: The Origins of Power, Prosperity and Poverty* (London, 2012).

14. Foundational work on historical institutionalism includes Coase, "The Nature of the Firm"; Williamson, *The Economic Institutions of Capitalism*; North, *Institutions, Institutional Change and Economic Performance*, and *Understanding the Process of Economic Change*.

15. This is the approach taken by Jurgen Kocka, *Capitalism: A Short History*, trans. Jeremiah Riemer (Princeton, NJ: Princeton University Press, 2016).

16. Oliver E. Williamson, "The New Institutional Economics: Taking Stock, Looking Ahead," *Journal of Economic Literature* 38 (2000): 595–613.

17. William Lazonick, "Innovative Enterprise and the Theory of the Firm," in *Rethinking Capitalism: Economics and Policy for Sustainable and Inclusive Growth*, ed. Michael Jacobs and Mariana Mazzucato (Chichester: Wiley Blackwell, 2016), 77–97.

Fund, or the World Bank, on the other hand, rank among the most characteristic and constitutive capitalist institutions.¹⁸ Established by treaty between sovereign states, they are subject to international law and, crucially, have the ability to enter into enforceable agreements among themselves, between themselves and states, and to legislate for states.¹⁹ They govern the boundary between economy and politics and have characteristics of both spheres. The capacity enjoyed by these institutions to set the terms of activity for nations, corporations, development agencies, collectives, and individuals has made them the focus of contemporary protest at capitalism's democratic deficit.²⁰ Whatever views might be held about their efficacy or legitimacy, these are clearly a set of capitalist institutions that share in a form of sovereignty and so have constitutive capacity.

The Central Commission for the Navigation of the Rhine is the oldest continuously existing intergovernmental organization (IGO).²¹ The commission was set up through Articles 108 to 116 of the "final act" of the Congress of Vienna and began to function in June 1815.²² The commission has proved to be remarkably durable. It has survived both world wars, having moved from its headquarters from Mainz and then to Mannheim and finally to Strasbourg in 1920, and continues to ensure the navigation of the Rhine and its associated waters. The organization of the Rhine institutionalized at Vienna laid the template for open trade on international rivers from that point forward. The Commission of the Danube, authorized by the Treaty of Paris, was patterned on the Rhine Commission, and throughout the nineteenth century the United States cited the Vienna principles in support of its claims to navigation rights on South American rivers. The Congress of Berlin, in 1885, established navigation rights on the Congo and the Niger on the same principles. The commission defined free trade and the nature of an international river through its practice, and it exemplifies the capacity of IGOs to create economic rules that drive economic life. However, the commission did not spring newly formed from the debates around

18. International society and its institutions have an enormous literature. See Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton, NJ: Princeton University Press, 2004).

19. Josef L. Kunz, "Privileges and Immunities of International Organisations," *American Journal of International Law* 41, no. 4 (October 1947): 828–62.

20. See, among many others, Joel Spring, *How Educational Ideologies Are Shaping Global Civil Society: Intergovernmental Organizations, NGOs, and the Decline of the Nation State* (London: Routledge, 2004); David Held and Anthony McGrew, *Globalization/Anti-Globalization: Beyond the Great Divide*, 2nd ed. (Cambridge: Cambridge University Press, 2007); Jason Beckfield, "The Dual World Polity: Fragmentation and Integration in the Network of Intergovernmental Organisations," *Social Problems* 55, no. 3 (2008): 419–42.

21. See Central Commission for the Navigation of the Rhine, <http://www.ccr-zkr.org>.

22. Bob Reinalda, *Routledge History of International Organizations: From 1815 to the Present Day* (London: Routledge, 2009), 28.

the conservative reformation of Europe at Vienna; though an institution created by the restored monarchies, the commission had revolutionary roots. Through the history of its formation, we can gain an insight into the process through which the reform impulses, and critiques of war and empire, of the late eighteenth century were transformed and transmitted into the nineteenth.

THE RHINE BECOMES AN INLAND SEA: LEARNING CAPITALISM THE REVOLUTIONARY WAY

The prehistory of the International Commission for the Rhine extends back into the eighteenth century. The French state would acquire responsibility for the regulation of the Rhine, the artery of trade through Western Europe, as an unforeseen consequence of the success of the revolutionary armies. However, the French state had been grappling with the problem of identifying the legal principles that were relevant to disputes over water resources for some time and continued to do so through the revolutionary and Napoleonic periods.²³ In 1788 the Conseil d'État, supported by the silk weavers of Privas and Chomereau, had been highly frustrated that it could not pursue its plan to relieve all duties on coal transported on French rivers.²⁴ The Prince of Monaco and the Marquis de Veynes succeeded in having the courts recognize that they had been awarded a tariff on the Rhône in 1719 in return for ameliorating their existing rights on naval imports through Toulon and Marseilles.²⁵ This was exactly the kind of legal defense of privilege that disappeared after 1789. The revolution marked a clear decision that rights of communication on French rivers could not be hampered by any kind of preexisting legal claims. In 1804 the Tribunal de Commerce of Lyon asked the Ministry of the Interior to suppress the unregulated water traffic between Lyons, Châlons, and Paris that was competing with the road haulers.²⁶ The minister absolutely refused to, taking the opportunity to explain that "the government does not wish to limit their liberty in that way, nor to impose conditions that they must use this route rather than another."²⁷ The Commission on Public Works recommended that the Canal of Briare, along with the Canals of

23. See Jean-Laurent Rosenthal, *The Fruits of Revolution: Property Rights, Litigation, and the French Agriculture, 1700–1860* (Cambridge: Cambridge University Press, 1992).

24. *Arrêt du Conseil d'État du Roi, qui fait défenses de percevoir aucun Droit de Péage dans l'étendue du Royaume, sur le Charbon de Terre, qui ne se trouvera pas nommément exprimé dans les tarifs ou pancartes* (Paris, October 28, 1785).

25. Archives Nationales (hereafter AN) AN F12 1512b, Anon. to Contrôleur-Général de Finance, November 22, 1788.

26. AN F12 1515b, Anon., *Aux magistrats composant le Tribunal de Commerce, à Lyon* (Lyon, An XIII).

27. AN F12 1515b, Le Ministre de l'Intérieur aux commissaires chargeurs de Lyon, Genes, le 15 Messidor an XIII.

Orleans and Loing, should be nationalized and put under a unified public authority.²⁸ It did so although conceding that the owners of the canal had made every effort to maintain the waterway, even in the most difficult moments of the year II. Even the most publicly spirited private owners could not be relied on to meet the needs of the common good; “a wise, economic and thrifty owner will only make investments relative to the possible profits.” The creation of *régie* to maintain and guarantee the public interest in waterways was a popular solution; the Chamber of Commerce of Toulouse asked for an authority to control and maintain the Canal du Midi in 1805.²⁹ Waterways were a productive site of schemes to align public good with private interest through investment. In 1797 M. Gamot was the recipient of extensive support from the Ministry of the Interior, including the offer of a dock for his exclusive use in Paris, for his scheme to design seagoing vessels that would be capable of coming up the Seine from Le Havre.³⁰ This particular vision of Paris becoming directly connected to the sea was recurrent and resolutely commercial. An entrepreneur called Mioche rallied “our capitalists to co-operate in the construction of ships adapted to the trade on the Seine” by pointing out that if the alternative scheme of a canal from Dieppe to Paris was constructed then the trade of the river would collapse.³¹ Rivers were a fecund source of creative thinking about the relationship of trade to citizenship.

The Scheldt and subsequently the Rhine posed difficult challenges to public policy because they were international rivers. Organizing trade on canals or rivers within France demanded the creation of new economic institutions for the nation; it was a form of economic constitution making. Articulating the conception of rights underpinning a cosmopolitan right to trade on international rivers drove French politicians, administrators, and merchants to ideas that were very far from the notion of a political community giving the law to itself. The absorption of the nine new departments on the left bank of the Rhine on October 1, 1795, not only brought new territories with complicated commercial histories into the republic, it also made the republic responsible for the management of the Rhine, the most important waterway in the Western Europe, from the borders of the Batavian Republic to the Alps. Latterly even the mouth of the Rhine became a French responsibility when the Netherlands became part of the French Empire.

28. AN F12 1515, *Rapport de la commission de travaux publics au Comité du Salut Public*, 9 germinal An III.

29. AN F12 1515, Les membres composant la Chambre de Commerce de Toulouse à son excellence le Ministre de l'Intérieur, 21 pluviôse an 13.

30. AN D 1515, Rapport présenté au Ministre de l'intérieur, 9 prairial an V.

31. Mioche, *Entreprise d'un cabotage de la mer par Le Havre et Rouen, jusqu'à Paris* (Paris, an X), 2–3.

Robert Mark Spaulding explains that the 1815 resolution of the problem of the Rhine effectively rehearsed the Octroi agreement, signed between the French Republic and the German Empire on October 14, 1804.³² That agreement established a unified set of tolls for three different categories of goods levied at 12 toll stations along the river and abolished the privileges of Cologne and Mainz that had required the reshipment of all consignments at those two river ports. The subsequent growth in internal riverine traffic, which drove economic development in the heart of Europe, dated from the Napoleonic period and continued into the nineteenth century.³³ Spaulding again has interrogated an array of data that establishes that, despite the disruptions of war and blockade, riverine traffic on the Rhine increased as institutional reform provoked intensified internal continental trade.³⁴ The agreement established the precedent that the revenues from the tolls should be assigned to the maintenance of the riverway and so solved the endemic problem of underinvestment and rent extraction that had led to a slow decline in trade on the Rhine during the eighteenth century. The new regime was not without its flaws; Ellis notes that the discussions in the Strasbourg Chamber of Commerce during the Napoleonic period were dominated by contention over the costs of repair to the river and the rights of access enjoyed by Alsatian boatmen.³⁵ However, there were no complaints about the principle of the reform, and Alsatian merchants stopped looking for alternative routes to avoid tolls. Spaulding's and Ellis's accounts cohere with an emerging consensus among economic historians that the revolutionary and Napoleonic institutional reforms were instrumental in creation of an expanded internal European market in the nineteenth century through lowered transport costs and a new, shared set of economic rules.³⁶

32. Robert Mark Spaulding, "Revolutionary France and the Transformation of the Rhine," *Central European History* 44 (2011): 203–26, and "Rhine River Commerce and the Continental System," in *Revisiting Napoleon's Continental System. War, Culture and Society, 1750–1850* (London: Routledge, 2015), 114–32.

33. Geoffrey Ellis, *Napoleon's Continental Blockade: The Case of Alsace* (Oxford: Oxford University Press, 1981); Michael Kopsidis, Ulrich Pfister, Frederike Scholten, and Johannes Bracht, "Agricultural Output Growth in a Proto- and Early Industrial Setting: Evidence from Sharecropping in Western Westphalia and the Lower Rhineland c1740–1860," *Rural History* 28, no. 1 (2017): 21–46; Michael Rowe, "Between Empire and Home Town: Napoleonic Rule on the Rhine, 1799–1814," *Historical Journal* 2, no. 3 (1999): 643–74; Roger Dufraisse, "Les organisations professionnelles de la batellerie à Cologne: des tribus de l'ancien regime à la guilde napoléonienne," *Actes du quatre-vingt douzième Congrès national des Sociétés savantes, Strasbourg et Colmar 1967* (Section d'histoire modern et contemporaine), vol. 2: *Le Commerce et l'industrie* (Paris: Bibliothèque nationale, 1970), 179–98.

34. Robert Mark Spaulding, "Changing Patterns of Rhine Commerce in the Era of French Hegemony, 1793–1813," *Vierteljahrschrift für Sozial-und Wirtschaftsgeschichte* 100, no. 4 (2013): 413–31.

35. Ellis, *Napoleon's Continental Blockade*, 51, 73.

36. Kevin O'Rourke, "The Worldwide Economic Impact of the French Revolutionary and Napoleonic Wars, 1793–1815," *Journal of Global History* 1 (2006): 123–49; Daron Acemoglu, Davide Cantoni, Simon

The regulations of 1804 and the treaty of 1815 were compromises. Prussian and other German negotiators attempted to restrict international access to the Rhine as much as possible and were anxious to protect the trade of their riparian cities.³⁷ The new regulations were successful because of the political support of Talleyrand and the rest of the French delegation as well as the British negotiators. This should not be surprising, as the freedom of the Rhine had been a consistent policy goal of revolutionary France. The first initiative toward making the Rhine a free trade zone was Article 19 of the treaty signed with the United Provinces on 27 floréal an III that gave navigation rights on the Rhine, Meuse, Scheldt, and Hondt to French and Belgians.³⁸ The French Republic gained control of the elements of the empire on the left bank of the Rhine in the autumn of 1794, and this was recognized in the Peace of Basel, signed with Prussia in April 1795.³⁹ After the Treaty of Campo Formio, the Directory began the organization of the territory into departments, and this brought into sharp focus the problem of regulation of the waterway of the Rhine. During the abortive Congress of Rastadt in 1797–98, the French position was that there should be an absolute right of navigation on the Rhine.⁴⁰ The French vision of the Rhine, and the other rivers of the Low Countries, as a free trade zone was remarkably consistent. The 1804 regulations, therefore, did not articulate the commercial vision of the republic, or even of the Napoleonic regime, but reflected a pragmatic compromise with the German states, a tactical withdrawal from the preferred ideal. The more radical capitalist norms inscribed into the foundations of the Commission of the Rhine were inherited from the experience of the French revolutionary state and were even more capacious in their claims.

This kind of continuity across the revolutionary decades is unusual. To understand why the French revolutionary state was so committed to an open Rhine, and the later Napoleonic regime remained so, we have to understand the moment in the revolutionary decades that the right to trade on Europe's rivers became politically important. That moment was the autumn of 1792, when the French armies took control of the Scheldt, the most politically controversial river in Western Europe. The fall of the French monarchy in August 1792 radicalized arguments about

Johnson, and James A. Robinson, "The Consequences of Radical Reform: The French Revolution," *American Economic Review* 101 (December 2011): 3286–307.

37. Georges Kaekenbeeck, *International Rivers: A Monograph Based on Diplomatic Documents*, Grotius Society Publications, no. 1 (New York: Grotius Society, 1919), 40–45.

38. *Gazette National de France*, No. 246, 6 prairial an III. The Hond (or Hondt) is also known as the Western Scheldt.

39. Philippe Sagnac, *Le Rhin Français pendant la Révolution et l'Empire* (Paris: Alcan, 1917), 115–16.

40. Kaekenbeeck, *International Rivers*, 33.

natural right that had characterized the Revolution since 1789 and drove its political trajectory toward new experiments.⁴¹ The dawning realization that a just society could not be found and ordered by the ascription of rights to existing social and economic relationships, but would have to be made, created the conditions for profound conflict among revolutionaries. Seemingly secure institutions that created the context for the practice of rights, such as property or the family, themselves became vulnerable to political scrutiny.⁴² Previously unimaginable reforms, such as the institution of no-fault divorce or the complete overturn of the colonial economy through the abolition of slavery, became politically credible as the possibilities of rights-bearing citizenship became unmoored from existing social institutions.⁴³ The history of the republic from 1792 to 1794 was dominated by conflict, primarily between Montagnards, Girondins, and Sans-Culottes, that turned on what model of citizenship, adapted to various visions of commercial society, would be used to give depth and meaning to the regime of natural right. That conflict had outcomes as various as the full acceptance of Jews into civil life, the proclamation of a universal right to education, and the institution of Terror.

At the precise moment in 1792 that the “second revolution” commenced, the successes of French armies forced the French executive to confront the problems of a revolutionary army becoming an army of occupation. The invasion of the Austrian Netherlands by Dumouriez in October 1792, and victory at Jemappes in November, made one of the most politically troubled regions of Europe, and one that had its own complex history of revolutionary and reform politics, the responsibility of the new French Republic.⁴⁴ In the brief period between November 1792 and March 1793, when after the defeat at Neerwinden the French armies had to retreat south, the French Republic had to work out how the rights of peoples, the rights of man, and the right to trade could be sustained by an occupying power.⁴⁵ The

41. For contrasting treatments of natural right in the Revolution, see Florence Gauthier, ed., *Triomphe et mort du droit naturel en Révolution 1789–1795–1802* (Paris: Editions Syllepse, 1992); Marc Belissa, Yannick Bosc, and Florence Gauthier, eds., *Républicanismes et droit naturel. Des Humanités aux révolutions des droits de l’homme et du citoyen* (Paris: Editions Kimé, 2009); Dan Edelstein, *The Terror of Natural Right: Republicanism, the Cult of Nature, and the French Revolution* (Chicago: University of Chicago Press, 2009).

42. Rafe Blaufarb, *The Great Demarcation: The French Revolution and the Invention of Modern Property* (Oxford: Oxford University Press, 2016); Suzanne Desan, *The Family on Trial in Revolutionary France* (Berkeley: University of California Press, 2004).

43. Of course, all innovations quoted existing institutions. On the overthrow of colonial slavery, see Malick Ghachem, *The Old Regime and the Haitian Revolution* (Cambridge: Cambridge University Press, 2012).

44. On this complexity, see Klaas Van Gelder, “The Convention of The Hague and the Constitutional Debates in the Estates of Flanders and Brabant,” *Early Modern Low Countries* 1 (2017): 156–76.

45. Marc Belissa, *Fraternité universelle et intérêt national (1713–1795): Les cosmopolitiques du droit des gens* (Paris: Editions Kimé, 1998).

solution it found to the problem of Belgium's rivers would determine the commercial principles of the emerging republic.⁴⁶

Belgium had been a cockpit within which issues of international political economy had been played out since the middle of the seventeenth century.⁴⁷ In 1648 the Treaty of Westphalia had closed the Scheldt and so cut Antwerp out of competition with Amsterdam for a dominant role in the newly emerging Atlantic trade. Again in 1731 the Treaty of Vienna explicitly excluded the Low Countries from the Asian trade and closed the Ostend Company, which had been a rallying point for enemies of the British East India Company. In 1784 the Austrian emperor Joseph II had attempted to establish a right of navigation on the Scheldt but had not been supported by his French allies.⁴⁸ Core principles of international order were at stake in the question of the Scheldt. Was revolutionary France going to accept the binding force of antecedent international treaties as so respect the closing of the Scheldt, or would it appeal to Grotian principles such as the right to trade, and open it?

War complicated the issue: it was not clear how armed democracy was compatible with natural right, and the army had its own problems that constrained the capacity of the state to control it. In November 1792, even as it invaded the country, the French army was on the point of collapse and likely to pose a danger to the local population if unpaid. On November 21 the paymaster of Dumouriez's army wrote from Valenciennes that money was so short that "it will be impossible for me to continue payment."⁴⁹ Unpaid invading armies were not exemplars of citizenship, even in regions such as Liège that were generally more sympathetic to French ideals. The problem continued to occupy the attention of the French authorities. In the year III the *commissaire*, Robert, had to remind the troops that the Liègeois were allies and friends and should be protected from soldiers "breaking down hedges, stealing vegetables and tramping down the coming harvest."⁵⁰ On the other hand, the efficacy of the new revolutionary regime was highly dependent on the educative effect of armed men. The same Robert notified the municipality of Liège that if "the cold avarice or anti-civic resistance of well-off individuals" and their lack of enthusiasm for the forced loan continued, then he would use the army to seize their goods.⁵¹

46. Belgium is of course a geographical term in 1792, though it was used by the French authorities. The Austrian Netherlands (Flanders, Brabant, Hainaut, and Namur) and the bishopric of Liège were the relevant political entities, but the region constituted nine provinces in total.

47. Stanley T. Bindoff, *The Scheldt Question to 1839* (London: Routledge, 1945).

48. Munro Price, "The Dutch Affair and the Fall of the Ancien Régime, 1784–1787," *Historical Journal* 38, no. 4 (1995): 878.

49. AN D2/1, Lemonnier to the Conseil exécutif provisoire, Valenciennes, November 21, 1792.

50. AN F1e 2, Proclamation au nom du peuple français, 2 prairial an II.

51. AN F1e 2, Robert to the Commune of Liège, 8 prairial an III.

How was the French Republic that preemptively invaded states beyond its “natural limits” different from any other commercial empire? Did the republic simply reproduce the cycle of appropriating the profits of commerce to fuel war?

The Conseil exécutif provisoire of the newly established French Republic sat down to confront these tangled problems of war, international order, and economy on the morning of November 16, 1792.⁵² The executive council had been created by the Legislative Assembly on August 13 and would remain the effective government until the creation of the Committee of Public Safety in April 1793.⁵³ It was dominated by men, such as Roland and Clavière, who had been intellectually and practically engaged with problems of politics and commerce from well before the Revolution.⁵⁴ As a first piece of business they had to address the strategic situation of the armies, and they found themselves with no other option but to escalate the war. If they allowed the forces of the coalition to retreat and regroup in safety that would leave the republic vulnerable and on the defensive. In response to this problem, they gave orders to Dumouriez “to pursue the enemy armies, even into Dutch territory, if they should retreat in that direction.”⁵⁵ The republic could not escape the Hobbesian logic of international conflict.

The members of the council were disturbed by the inability of the revolutionary regime to act in accordance within its declared cosmopolitan principles and were anxious to rescue them. One of the members pointed out that “the restrictions and shackles which up to now the commerce and navigation of the Escaut [Scheldt] and the Meuse have suffered, are directly contrary to the fundamental principles of natural rights which all French people have sworn to uphold.”⁵⁶ This opened up a beautiful opportunity to make sure that “all the nations of Europe will not be able to deny that the destruction of all tyrannies and the triumph of the rights of man are the only ambitions of the French people.”⁵⁷ They demanded that the Scheldt be immediately opened to commerce.

52. AN AF II* 1, Registre des délibérations du Conseil exécutif provisoire, Soixante-Cinquième Séance, November 16, 1792.

53. AN AFII 2 f.5, Première séance du Conseil exécutif provisoire, 13 août 1792, l’an II de la liberté.

54. Unfortunately, the procès-verbal of the discussion does not identify individual speakers.

55. AN AF II* 1, Registre des délibérations du Conseil exécutif provisoire, Soixante-Cinquième Séance, November 16, 1792.

56. AN AF II* 1, Registre des délibérations du Conseil exécutif provisoire, Soixante-Cinquième Séance, November 16, 1792. “gênes et les entraves que jusqu’au présent la navigation et le commerce ont souffert tant sur l’Escaut que sur la Meuse sont directement contraires aux principes fondamentaux du droit naturel que tous les français ont juré de maintenir.”

57. AN AF II* 1, Registre des délibérations du Conseil exécutif provisoire, Soixante-Cinquième Séance, November 16, 1792.

The terms under which the council instructed Dumouriez to open the Scheldt to commerce were fascinating because they distinguished between the natural rights of citizens and a set of commercial, cosmopolitan natural rights. The council did not declare its support for a decision the people of Antwerp or Brabant might take to seek to have the Scheldt opened, which would be a political process, but argued that the opening of the Scheldt was a duty, “liberty restored and tyranny overturned.” The council was specific that rights were inherent in international rivers outside the will of any particular people who lived on their banks:

The path of a river is the common and inalienable property of the people (*habitans*) of all the countries watered by its flow. No nation can, without injustice, claim the right to prevent the neighbouring peoples who live on the upper reaches from enjoying the same advantages. Any such right is a vestige of feudal servitudes or otherwise an odious monopoly, which could only be instituted by force, and consented to from a position of weakness, and is in consequence revocable in any circumstance and despite any treaties.⁵⁸

The rights inherent in the Scheldt, and by extension all international rivers, were not political in nature; rather, they were prepolitical, cosmopolitan regulative principles, beyond and immune to political process.

It is unusual for a policy to be explicitly articulated in terms of first principles. This should not blind us to the pragmatic work that opening the Scheldt also achieved. Opening the Scheldt would force the Dutch either to acquiesce to the abrogation of international treaties that were foundational to their state or fire on ships moving through the Scheldt delta from the Walcheren and Cadzand forts, thus supplying the French Republic with a *casus belli*. Moving responsibility for hostility to the Dutch was an astute piece of politics. However, the pragmatic politics did not exhaust the meaning of the action. Effectively, the republic had identified a form of economic liberty that an individual or population could enjoy without themselves enjoying political liberty. This was made clear in the final comment of the council that “when the advantages already gained for the Belgian people by French arms are united with the free navigation of the rivers and the freedom of commerce for the provinces, this people will no longer have any fears for their independence.”⁵⁹ Belgians could enjoy their natural rights even without being sovereign. The same language was used in the festival held at Antwerp by the French army and the municipality to celebrate the actual opening of the Scheldt—as opposed to the original declaration—the following year, after the French military position

58. Ibid.

59. Ibid.

had been reasserted.⁶⁰ The French victories were not celebrated for having freed the Belgian nation but because the “benefits they brought to humanity” had been established in the unshakable foundations of “public property and the imprescriptible rights of Nature.”⁶¹ In their response, the municipality echoed the same idea, that “the liberty of commerce loudly proclaimed by the Convention nationale and proclaimed by its representatives, is a sacred act, a formal obligation,” not a political decision, an act of sovereignty.⁶² The political moment around the opening of the Scheldt created the opportunity for the principles of natural right to find expression in commerce rather than through the sovereign nation.

The narrative through which the improvisation aligning revolutionary natural right with liberty of commerce in 1792 develops into the institution of the Commission of the Rhine in 1815 is long and complicated. Because the decision to open the Scheldt reflected the ideological problems the revolutionaries were facing rather than any local demand, the initial response on the ground was at best lukewarm. In the note to the Committee of Public Safety, appended to the account of the festival celebrating the opening of the Scheldt, Fabre admitted that the measure was not popular, “fanaticism and other prejudices among the people of Antwerp had stopped them from responding to this great humanitarian act with all the feeling one might hope.”⁶³ Commercial liberty was not making citizens of Belgians. Commerce did have its own logic, however; even though political opinion did not support the French, the prospect that unrestricted commerce would drive an increase in trade had pushed up the property market in Ostend, where “public spirit is bad and the opening of the Scheldt has not improved it.”⁶⁴ Even where the French had support, problems could arise. The commissaire at Liège had to balance the need to sustain the support of the revolutionaries of Liège, who were notably more enthusiastic about the French occupation than inhabitants in the other provinces of the Low Countries, with the ambition of the Thermidorian regime to end political conflict. He imposed a jury on the revolutionary tribunal in the name of “justice, which has descended among the peoples to render them happy and sustain their respective rights of the person and property.”⁶⁵ The rights of person and property, commercial

60. Anon., *Procès-verbal de l'ouverture del'Escaut, don't la liberté à été proclamé par la République française, le 30 Thermidor, jour de la celebration de l'imortelle journée du 10 Août 1792* (Antwerp, An II).

61. *Ibid.*, 2.

62. *Ibid.*, 8.

63. AN F1e7, Fabre de Nantes, représentant de peuple près des armées du Nord et du Sambre et Meuse, au Comité du Salut Public, Bruxelles, 5 fructidor an III.

64. AN F1e3, “Notes sur l'Ostende pays reunis par le décret du 9 vendemiare,” 15 fructidor an III.

65. AN F1e1, Robert, au citoyen accusateur public près le Tribunal criminal révolutionnaire établi à Liège, Liège, 26 floréal an III.

liberty, did not satisfy critics of the Revolution or its supporters. Moreover, the controversies around the French East India Company, implicated in bribery and share fixing at precisely the moment that the republic embraced freedom of international commerce, made the boundary between international commerce and politics a tense one.⁶⁶ The role of trade in a republic would divide Gironde from Montagnard.

Despite these complications, the idea of the liberty of commerce as a natural right had two distinctive outcomes for economic organization in Belgium. During the moment of revolutionary government, up to the summer of 1794, the liberty of commerce was understood as a regulative principle, hostile to established or local preferences, which were understood as forms of privilege. The actions of the Committee of Public Safety and its improvisation of a war economy interpreted the freedom of commerce in a particularly clear and unambiguous way. Faced with a problem of food supply, for instance, on 27 thermidor an III the Committee of Public Safety had allowed goods to transit through the old Belgium on their way to Switzerland without paying customs, effectively allowing the free navigation of the Meuse and the Rhine.⁶⁷ That was only one of a suite of measures, such as lowering the duty on imported gin, instituted by the *représentant en mission* Lefebvre to stimulate the economy and support the armies. However, the historic memory of these measures in Belgium was not of having been forced to be economically free but as the imposition of political control on commerce. In the immediate aftermath of the revolutionary government, when an official in the canton of Gand wanted to support the petition of local cloth manufacturers to allow export of thread abroad he cited the interference of the *représentants en mission* as the paradigm of ill-informed interference with the liberty that was the real interest of the republic. The commissaire unwittingly cited the principles of natural right that animated exactly the behavior he was denouncing. He defined liberty as economic liberty: "The general interest of the citizens, that is to say that of the nation, exists only in the liberty of commerce and agriculture."⁶⁸ The revolutionary experience decisively altered the terms through which economic experience was conceptualized, but the change was so rapid and profound that different interests did not align to new ideas in a consistent pattern.

The administrative and legal work that was being done through the debate on Belgian commerce was to open a space where the political categories of republicanism,

66. Elizabeth Cross, "L'anatomie d'un scandale: L'affaire de la Compagnie des Indes revistée (1793–1794)," in *Vertu et politique: les pratiques des législateurs*, ed. Michel Biard et al. (Rennes: Presses Universitaires de Rennes, 2015), 251–64.

67. F12 606 23, Ventose an 6.

68. AN F12 607, Le commissaire du directoire exécutif près le Tribunal correctionnel du Canton de Gand au Citoyen Ministre de l'Intérieur, 1 prairial an IV.

which unified all activity into a substantive idea of the public good, simply did not hold. The idea of virtue, which had taken the independent judgment of the citizen as its norm that was pursued by the public good, was being replaced by an idea of rights, understood commercially. In the year VIII a group of entrepreneurs in Tournai got together to form an association for the exploitation of *chaux* (lime). This association was nearly immediately declared a corporation, and so illegal, by the prefect.⁶⁹ The entrepreneurs appealed to the Ministry of the Interior against this decision, and they were supported. What the officials in the central state ruled was that the law was effectively silent about this kind of economic association. What is particularly interesting is that in making this decision the head of the fourth section defined the characteristics of a corporation in a particularly tight way to exclude the new association from the provisions of the Le Chapelier law. To be considered illegal, organizations

1. must include all the practitioners, in this case all the *chaufourniers*;
2. have to regulate the methods of production and the rates of sale;
3. have to appoint their own officials to control the activity; and
4. have to be capable of pursuing individuals breaking their regulations in law.⁷⁰

The law was effectively silent, and political considerations did not apply, to any association that did not fulfill these criteria, which of course opened up a wide scope for forms of organization. The important work of Erika Vause illuminates how the seemingly simple division of politics and economy became complicated even around matters like imprisonment, which would seem to sit squarely within the orbit of sovereign power.⁷¹

Even in sectors that the Belgian economy was strong, its organization posed problems. In an industrial survey of the department of the Ourthe conducted in the year V (1796–97) the correspondent reminded the ministry that the strength of the cloth industry around Liège, which at that point was exporting more than 30,000 pieces of cloth every year, depended on access to European and Mediterranean markets: “Its well-being and progress depend on the liberty of commerce in Europe.”⁷² A similar report, this time written by the chamber of commerce at Bruges for the foreign minister, made the same point and underlined the threat

69. AN F12 607, Extrait du registre de la arrêté de la préfecture du département de Jemmappes, 23 prairial an 8.

70. AN F12 607, Rapport présenté au Ministre de l’Intérieur, 7 Germinal an 9.

71. Erika Vause, “Disciplining the Market: Debt Imprisonment, Public Credit, and the Construction of Commercial Personhood in Revolutionary France,” *Law and History Review* 32, no. 3 (2014): 647–82.

72. AN F12 607, Note sommaire sur le commerce du Département de l’Ourthe avant la guerre, 24 nivose an 5.

to the commerce of Bruges from the war. Holding on to access to Spanish markets was vital if the cloth industry was to survive, and the same was true of Germany in the case of the sugar refineries.⁷³ That these facts of international commerce were in tension with the strategic goals of the French state was unremarkable. What was more telling was the appeal to the “liberty of commerce in Europe” as the criterion that should guide decision making.

As one would expect, the reactions to the effort to order the internal commerce of this immense river system under a principle of free navigation were as various as the interests of towns and cities along it. Cities that had been excluded from the profits of Rhine tolls, and had their own merchants subjected to them, were anxious for all tolls to be lifted. “The different tolls imposed by fraud on the rivers of the region with which the Moselle connects, have blocked the citizens of Metz from committing themselves to commercial pursuits,” which they looked forward to taking up.⁷⁴ On the other hand, the territories that derived an income from the river, and particularly the cities of Cologne and Mainz where all goods had to be reassigned to local boatmen, struggled to defend their privileges. In 1802 the administrator of the duchy of Berg complained that the Cologne authorities were abusing the power they had been given to continue to inspect all goods coming up the river and to exclude all English goods. He asserted they were deliberately making it impossible to move goods from Düsseldorf to Frankfurt, “which creates an obstacle to the free navigation of the Rhine.”⁷⁵ Cologne would continue to agitate to recover its old privileges right through the Napoleonic period, petitioning as late as 1812 to have the privilege of the boatmen restored and local, rather than commission, control of commerce.⁷⁶ Despite these contending political claims, the state consistently adhered to the principle of freedom of commerce.

The accession of Napoleon and the construction of the Continental System accentuated the importance of the Rhine.⁷⁷ The commitment to the natural right to trade was tested by some complicated cases.⁷⁸ In January 1807 seven American ships,

73. AN F12 607, Les chef et députés de la chambre de commerce à Bruges au citoyen Charles Delacroix, Ministre des relations extérieures, Bruges, 30 nivôse an 5.

74. AN F12 1515, Extrait des registres des délibérations du Directoire du district de Metz, 17 thermidor An III.

75. AN F12 608, La Régence du Pays de Berg au Citoyen Jeanbon Saint André, Commissaire general des départements réunis, Dusseldorf, April 3, 1802.

76. AN F12 608, Chambre de Commerce de Cologne à son excellence le Ministre de Commerce et des Manufactures, Cologne, May 21, 1812.

77. François Crouzet, “Wars, Blockade and Economic Change in Europe, 1792–1815,” *Journal of Economic History* 24 (1964): 587. Geoffrey Ellis persuasively argued that the Continental System used markets in a form of “imperial preference.” Ellis, *Napoleon’s Continental Blockade*.

78. AN F12 608, Navires américaines, Anvers, 1807–10.

acting for the New York merchants Parrish and Ridgeway, deposited goods in Antwerp having previously called at England. What they were unaware of was that the decree of December 21, 1806, promulgated while they were en route, banned all ships having had contact with England from continental ports. The goods were initially not a problem because they were all of American origin and thus neutral: cotton, sarsaparilla, and indigo. However, the ships were insured in London, with Barings, and the merchants who had sent the goods had accounts to clear in London and Liverpool. The profits of the sale in Antwerp were to be used, at least in part, to clear those debts. The Americans explained that most of the trade between the United States and Europe had this structure, and if there were to be neutral commerce it would have to be insured in this way. Despite the fact that the profits of the sale were to be paid to British correspondents, they were eventually, in 1810, allowed to remit the money.

Through governance of the Rhine, the French state became cognizant that its commitment to free trade had effectively created a new principle of international commerce. An anonymous memorandum explained to ministers the reason why “it was necessary to have the sovereign princes of the right bank renounce their right to participate directly in the administration of the river, and to restrict the local French authorities in the same way.”⁷⁹ Only then could a “central commission” ensure the “salutary effects of a common policy.” The same anonymous *fonctionnaire* wrote lyrically about the positive effects of the transfer of power to the commission, which made the Rhine more like a sea than a river “serving as the intermediary that allows the national merchant fleet, without foreign intervention, to carry the products of the happy soil of France and the *industrie* of its inhabitants to the most distant countries.”⁸⁰ The state exemplified and supported natural right by extending the means of commerce. The memorandum suggested that the policy of the French state should not be to return the river to local control but to extend the inland sea through canals linking the Rhine, the Rhône, and the Elbe. Of course, extending the river system would extend the competence of the commission and the remit of natural rights.

Among major political figures few had the sensitivity and insight shown by this administrator, but Talleyrand was particularly alive to the political importance of the articulation of natural right as the right to trade. He saw the possibility of using that intuition of natural right as an organizing principle for the international order,

79. AN F12 608, *Considérations sur le traité du 27 thermidor an 12e* (15 août 1804) connu sous le nom de la convention de l’octroi de la navigation du Rhin, n.d.

80. *Ibid.*

one that would be in French interests.⁸¹ In a long report he wrote analyzing the position of the republic in global affairs, Talleyrand argued that France should aggressively assert the trading rights of neutrals.⁸² His strategic goal was the isolation of Britain, but he argued this was best achieved not by embargo but by making France guarantor of the right to trade. In his comments on the situation of Denmark, he argued that the armed neutrality in this war was not like that in the American, because this one was effectively guaranteed by France, did not have Russia in it, and had not been respected by all parties. England had declared all commerce to French ports contraband and stopped neutral vessels indiscriminately, thus defying the law of the sea. He argued France had played its hand badly. Worried about food, France had commissioned and paid for cargoes, which then had been taken up by the English, and the weak protests of the Swedes and Danes showed how little they cared. France should have made the freedom of the seas a war principle and provoked the Danes and Swedes to join her, not just effectively subsidized the British. New laws trying to strangle British trade had achieved nothing other than provoking the neutrals; better laws would reorder trade around France and make it the heart of a free trade empire. Ironically, this predicted how British policy would evolve.⁸³

The institutional design and regulatory power of the Central Commission for the Navigation of the Rhine reflected the experience of revolutionary and Napoleonic France. It also recapitulated the reform aspirations of the British delegation to the Congress of Vienna, and in particular those of the Anglo-Irish negotiators Castlereagh and Clancarty.⁸⁴ Castlereagh, thought the architect of conservative retrenchment in the aftermath of the revolution, had made his first forays into politics as the reforming Whig Robert Stewart, arguing for free trade for Ireland within the British Empire.⁸⁵ Stewart had been a commercial radical in his youth, warning his father-in-law Lord Camden in 1779 that any effort to introduce a tea export duty

81. For similar debates in the United States, see Mlada Bukanovsky, "American Identity and Neutral Rights from Independence to the War of 1812," *International Organization* 51, no. 2 (1997): 209–43.

82. Beinecke Library LaRévellière-Lépeaux Papers, MSS 549 f89, Rapport au Directoire exécutif sur la situation de la République française considérée dans ses rapports extérieurs avec les autres puissances, 14 messidor an VI.

83. Bernard Semmel, *The Rise of Free Trade Imperialism: Classical Political Economy, the Empire of Free Trade and Imperialism, 1750–1850* (Cambridge: Cambridge University Press, 1974); Sudipta Sen, *Empire of Free Trade: The East India Company and the Making of the Colonial Marketplace* (Philadelphia: University of Pennsylvania Press, 1998).

84. Richard Le Poer Trench, Second Earl of Clancarty (1767–1805); Robert Stewart, Viscount Castlereagh and Second Marquess of Londonderry (1769–1822).

85. Centre for Kentish Studies, Camden Manuscripts, U840/c/173/92, Lord Camden to Robert Stewart, Camden Place, August 25, 1785.

to Ireland “would have made the same mischief here” as in America.⁸⁶ His commercial cosmopolitanism survived his conservative evolution and paralleled the evolution of French thinking. However, we should not mistake agency for structure. The creation of a new kind of institution of governance at Vienna was not a matter of agreement between Talleyrand and Castlereagh but was of a piece with similar institutional innovations in a variety of contexts. In Britain, eighteenth-century accounting standards, especially for public accounts, had been very difficult to stabilize and highly politicized. The Commission of Accounts had been an intermittent instrument of parliamentary investigation, most notably used as a factional weapon in the “rage of parties.”⁸⁷ When Pitt the Younger decided to use a commission of accounts as an instrument of fiscal reform in 1785, he was working completely within the accepted political rules of the game; what he could not have anticipated was that by 1832 the commission he had initiated would have enunciated new public accounts standards that moved the issue of corruption outside the political realm.⁸⁸ The revolutionary experience transformed a political instrument into an instrument of economic regulation. That process of rule formation was reflected internationally in the emergence of new theories of accounts that translated older rules of thumb into universal regulatory principles.⁸⁹ Public credit networks stretched out to old empires and newly independent ex-colonies alike, imposing new disciplines and transforming politics.⁹⁰ In the United States the Marshall Court was moving in a cognate direction, identifying a series of extrapolitical rights at the core of citizenship and creating the conditions for the establishment of the court as the defender of property.⁹¹ A new form of regulatory governance, and a set of institutions, was emerging that exerted constitutive power by reference to rules, sometimes

86. Centre for Kentish Studies, Camden Manuscripts, U840/c/492/5, Robert Stewart to Lord Camden, Dublin, November 27, 1779.

87. Aaron Graham, “Auditing Leviathan: Corruption and State Formation in Early Eighteenth-Century Britain,” *English Historical Review* 128, no. 533 (2013): 806–38.

88. Jacob Soll, *The Reckoning: Financial Accountability and the Rise and Fall of Nations* (New York: Basic Books, 2014), 128.

89. Robert Mattessich, “Accounting Research and Researchers of the Nineteenth Century and the Beginning of the Twentieth Century: An International Survey of Authors, Ideas and Publications,” *Accounting, Business and Financial History* 13, no. 2 (2003): 125–70.

90. William Summerhill, *Inglorious Revolution: Political Institutions, Sovereign Debt, and Financial Underdevelopment in Imperial Brazil* (New Haven, CT: Yale University Press, 2015); Catalina Vizcarra, “Guano, Credible Commitments, and Sovereign Debt Repayment in Nineteenth-Century Peru,” *Journal of Economic History* 69, no. 2 (2009): 358–87; Mark Dinecco, “The Political Economy of Fiscal Prudence in Historical Perspective,” *Economics and Politics* 22, no. 1 (2010): 1–36.

91. For an argument that sees the early jurisprudence of the American Supreme Court in this light, see Max Lerner, “The Supreme Court and American Capitalism,” *Yale Law Journal* 42, no. 5 (1933): 668–701; Michael J. Klarman, “How Great Were the ‘Great’ Marshall Court Decisions?,” *Virginia Law Review* 87, no. 6 (2001): 1111–84.

through states, sometimes through courts, and sometimes through international organizations.

COMMERCIAL SOCIETY TO GLOBAL CAPITALISM

The particular resolution to the revolutionary crisis of the late eighteenth century that linked sovereignty and improvement through capital was unforeseen and a result of the failure of every alternative vision of the future, from the grandest visions of universal democracy and the extirpation of poverty to the more conservative utopian dream of setting up a rural idyll on the Ohio.⁹² Capitalism, this article suggests, is best understood in the terms offered by Fernand Braudel as analytically distinct from commerce, markets, industry, or any of the other elements of economic life that occur across a variety of forms of social organization. The peculiarity of capitalism as it emerged in the early nineteenth century is that its international institutions incorporated a genuinely cosmopolitan commercial vision of the subject. The regulatory role of the IGOs, and in other contexts states and courts, enjoyed tremendous legitimacy because they encapsulated an understanding of universal rights.⁹³ If we understand and approach the history of capitalism through these institutions we can simultaneously capture its historical contingency and its world-shaping power. That optic allows us to see the mutual interactions of democracy, economy, and capitalism. The Central Commission for the Navigation of the Rhine is by no means the most powerful or important of those institutions, but as the first it illuminates the regulatory potential of capitalism with particular clarity.

The global nature and universal claims of nineteenth-century capitalism differentiate it radically from the commercial societies of the eighteenth century. These, of course, had substantial capitalist elements, but economic order was embedded in conditions of public power (politics), social reproduction (*domos*), and nature.⁹⁴ Capitalists were familiar and well-understood figures, noted in the classic *Aventures de*

92. Gareth Stedman Jones, "An End of Poverty: The French Revolution and the Promise of a World without Want," *Historical Research* 78, no. 200 (May 2005): 193–207, and *An End to Poverty: A Historical Debate* (New York: Columbia University Press, 2004); Suzanne Desan, "Transatlantic Spaces of Revolution: The French Revolution, *Sciotomanie*, and American Lands," *Journal of Early Modern History* 12 (2008): 467–505.

93. Samuel Moyn, *Not Enough: Human Rights in an Unequal World* (Cambridge, MA: Harvard University Press, 2018); Axel Honneth, *Freedom's Right: The Social Foundations of Democratic Life* (New York: Polity, 2015).

94. Feminist science studies retain a particularly rich and complex approach to capitalism. See, principally, Nancy Fraser, *Fortunes of Feminism: From State-Managed Capitalism to Neo-Liberal Crisis* (London: Verso, 2013); Nancy Fraser and Rahel Jaeggi, *Capitalism: A Conversation in Critical Theory*, ed. Brian Milstein (London: Polity, 2018); Eva Illouz, *Cold Intimacies: The Making of Emotional Capitalism* (London: Polity, 2009); Martijn Konings, *The Emotional Logic of Capitalism: What Progressives Have Missed* (Stanford, CA: Stanford University Press, 2015).

Télémaque and defined in the *Dictionnaire Domestique* of 1765 as “celui qui fait valoir son argent, en le disposant suivant le cour de la place, et qui vit de ses rentes” (one that increases his money, by disposing of it according to price trends, and who lives from his investments).⁹⁵ However, the rent-drawing capitalist was the antithesis of the communicating trader, the *place*, the exchange, a very different space to the *marché*. Markets in commercial societies, as embedded zones of exchange within worlds of shared value, were very different from the opaque world of long-distance traders and bankers, and even these were subject to strategies of domestication in all commercial societies. For an eighteenth-century town-dweller, a capitalist market would have been an oxymoron.⁹⁶ The experience of a new kind of world, where ideas of universal right were now expressed in economic terms, was so counterintuitive that it was only slowly recognized. Within political economy, the modern republican idea that a world of reformed commercial states could provide the antidote to war and empire was only slowly transformed into a new kind of liberalism, one that was compatible with previously unimaginable forms of empire.⁹⁷ In contrast to commercial society, which was an explicitly theorized object, capitalism was a concept coined only in the middle of the nineteenth century.⁹⁸

This article argues that the change that opened the door to a capitalist world, one dominated by capitalist norms, was the alteration to the boundary between economic and public power that followed the era of the democratic revolution and in particular the French Revolution. The idea of the economy as a separate order had emerged in the seventeenth century, but it was only one of several competing visions of the moral horizon of the subject. Capitalism as a world order became

95. François Alexandre Aubert de la Chesnay des Bois and Jean Goulin, eds., *Dictionnaire domestique portative* (Paris: Vincent, 1765), 3:505.

96. Immanuel Wallerstein appreciated the power of Braudel’s insight and illuminates it in Immanuel Wallerstein, “Braudel on Capitalism, or Everything Upside Down,” *Journal of Modern History* 63, no. 2 (1991): 354–61.

97. Béla Kapossy, Issac Nachimovsky, and Richard Whatmore, eds., *Commerce and Peace in the Enlightenment* (Cambridge: Cambridge University Press, 2017); Paul Cheney, *Revolutionary Commerce: Globalization and the French Monarchy* (Cambridge, MA: Harvard University Press, 2010); Lawrence Dickey, “Doux-Commerce and Humanitarian Values: Free Trade, Sociability and Universal Benevolence in Eighteenth-Century Thinking,” *Grotiana* 22, no. 1 (2001): 271–317; Anoush Terjanian, *Commerce and Its Discontents in the Eighteenth-Century French Political Thought* (Cambridge: Cambridge University Press, 2012); Catherine Larrère, “Montesquieu et le doux commerce: Un paradigme du libéralisme,” *Cahiers d’histoire: Revue d’histoire critique* 123 (2014): 21–38; Michael Sonenscher, *Before the Deluge: Public Debt, Inequality, and the Intellectual Origins of the French Revolution* (Princeton, NJ: Princeton University Press, 2009), and “Republicanism, State Finances and the Emergence of Commercial Society in Eighteenth-Century France—or from Royal to Ancient Republicanism and Back,” in *Republicanism: A Shared European Heritage, Volume 2: The Values of Republicanism in Early Modern Europe*, ed. Martin Van Gelderen and Quentin Skinner (Cambridge: Cambridge University Press, 2002), 275–92.

98. Louis Blanc, *Organisation du travail*, 9th ed. (Paris: Au Bureau du Nouveau Monde, 1850), 161–62.

possible when the boundary, the category of natural right, became filled by a commercial universalism. This was the mechanism through which all that was solid could be turned into air. The institutions that governed that boundary, and the norms that animated them, are crucial to an understanding of why industrial society became indistinguishable from capitalist world order and how capitalism reconciled itself to a form of democratic cosmopolitanism. The ambition of the article is emphatically not to offer a new view on the processes of industrialization and globalization but rather to help to explain the inflection of those complex processes toward global capitalism. Capitalism is intertwined with modern economic growth in such a complex pattern that it is almost impossible to distinguish them, but the two remain analytically distinct, and a more sharply defined understanding of capitalism will aid in understanding both.